

REAL ESTATE COMMISSION
Professional & Vocational Licensing Division
Department of Regulatory Agencies
State of Hawaii

MINUTES OF MEETING

Date: Friday, January 8, 1971

Place: Public Utilities Commission Hearing Room, Department of Regulatory Agencies, 1010 Richards Street, Honolulu, Hawaii

Present: Herbert S. Isonaga, Chairman
Douglas R. Sodemani, Vice Chairman
Louis Cannelora, Member
John Texeira, Member
Hiromu Yamanaka, Member
William H. C. Young, Member

Sidney Ayabe, Deputy Attorney General
Gary Shigemura, Deputy Attorney General
Yukio Higuchi, Executive Secretary

Mary Savio, representing State Association of Board of Realtors
George Morris, Jr., Executive Vice President of Honolulu Board of Realtors
Wesley Charlton, Hawaii Real Estate Association
Professor Donald W. Bell, College of Business Administration, University of Hawaii

Absent: Harold Silva, Member

Call to Order: There being a quorum, Chairman Herbert Isonaga called the meeting to order at 2:10 p.m.

Reading of Minutes: Upon motion, the minutes of the November 24, 1970 meeting were approved as circulated and placed on file.

Business Out of Minutes: Educational Task Force Committee Report
Educational Task Force Committee Chairman Douglas Sodemani gave a verbal report of the activities of his committee. He commented that the Committee is now making strides toward the Commission's goals in education. He mentioned that he will be meeting with Professor Bell on the morning of January 9, 1971 to discuss matters pertaining to real estate education program.

Professor Bell presented the Commission with copies of three proposed Project Approval Agreements which he prepared as requested by Sodemani.

Sodemani moved and Cannelora seconded that the Commission agree in principle with the proposed Project Approval Agreements presented by Professor Bell and formal action be taken at the next Commission meeting. Motion carried.

Chairman Isonaga directed the Chairman of the Educational Task Force Committee to present his firm recommendations on the Project Approval Agreements at the next regular meeting of the Commission.

Claims Against Real Estate Recovery Fund

Hamada et al vs. Bates Len (Civil No. 30113)

Executive Secretary reported that staff was requested by Deputy Attorney General Sidney Ayabe by letter to effect payment of \$5,025.31 from the Real Estate Recovery Fund to the Hamada's as ordered by the First Circuit Court, State of Hawaii. A copy of the Stipulation and Order was forwarded to staff.

Deputy Attorney General Sidney Ayabe gave his reason for entering the Stipulation and the Chairman thanked him for his explanation.

Sodetani moved and Young seconded that the Commission direct the Executive Secretary to take the necessary action to have payment made immediately. Motion carried.

Deputy Attorney General Ayabe took this opportunity to advise the Commission that there are four more suits pending against the Real Estate Recovery Fund, which are identical to the Hamada case, to be tried on March 1, 1971. He requested that the Commission consider settlement out of court inasmuch as the Hamada case was adjudicated in favor of the plaintiff and in his opinion the Commission would lose the case. The Commission instructed Deputy Attorney General Ayabe to proceed to trial on all four cases.

Leon Cavasso vs. Corbett-Tharp, Inc. dba Hawaii Homes (Civil No. 31361)

At the November 24, 1970 meeting, Deputy Attorney General Gary Shigemura requested the Commission to reconsider its earlier decision of disfavoring a settlement with Cavasso, and the Commission deferred action on the request.

Deputy Attorney General Shigemura reported that settlement would mean a saving of approximately \$5,000. Cavasso is asking for judgment of approximately \$10,000 plus attorney's cost.

Sodetani moved and Cannelora seconded that the Commission instruct Deputy Attorney General Shigemura to proceed to trial, and he was authorized to request an extension on the trial. Motion carried.

Executive Secretary was directed to convey the Commission's decision to the Attorney General.

Fred E. Haley, Jr. vs. John P. Chong (deceased) (Probate No. 33835)

Executive Secretary reported that staff had received notice from L. N. Nevels, Jr., informing the Commission that his client has

filed a claim against the Estate of the late John P. Chong which may result in payment from the Real Estate Recovery Fund. The claim against the Estate has not been allowed nor rejected as yet and as such has not been able to file a claim against the Real Estate Recovery Fund. No action was taken by the Commission pending the filing of a claim.

Questionable Applications Deferred Earlier

Clifford Oh (broker)

By letter dated December 8, 1970, Clifford Oh, applicant for broker examination, was granted an audience before the Commission to present his case as to why he should be allowed to sit for the February 25, 1971 broker examination under waiver of Section 467-8(6)(b), Hawaii Revised Statutes.

Mr. Oh appeared at the meeting, spoke on his own behalf, and answered questions on his experience. Mr. Oh was excused after he was advised that the matter will be taken under advisement by the Commission and he will be notified of the Commission's decision by letter.

Yamanaka moved and Sodetani seconded that the Commission deny Oh's request to sit for the broker examination under waiver of Section 467-8(6)(b), Hawaii Revised Statutes.

Mrs. Marie D. Henderson (salesman)

By letter dated December 8, 1970, Mrs. Marie D. Henderson, applicant for an inactive salesman license, was requested to appear before the Commission to discuss her application inasmuch as her abstract of criminal record shows some derogatory entries.

Executive Secretary reported that Mrs. Henderson had called on or about January 4, 1971 advising the Commission that she will not be able to appear at this meeting for health and appearance reasons. She claimed that she was in a recent automobile accident and received a multiple leg fracture and lost several teeth. Her leg is in a cast and she has difficulty in moving about and she does not want to be seen without her teeth. She was requested to submit a written statement from her doctor regarding her condition, but to date no statement has been received.

Action on this matter was deferred.

Investigations: RE-318 Robert Lucas

Distributed among the commission members was a copy of a letter dated December 30, 1970 from the Office of the Ombudsman addressed to Mr. Edwin H. Honda, Director of Regulatory Agencies, requesting the Department and Real Estate Commission review the circumstances of Dorothy Westman's complaint against Robert Lucas, real estate broker, and advise the Ombudsman as to whether or not a reconsideration or reinvestigation of the complaint may not be warranted.

Minutes of Meeting of January 8, 1971

Chairman Isonaga directed that a committee composed of the Chairman, Young, Jack Palk, Robt Bekeart and the Executive Secretary review this matter at a meeting on Wednesday, January 13, 1971 at 8:30 a.m.

RE-368 Patricia Smith aka Pat McCool

In accordance with the Administration Procedures Act, Mrs. Patricia Smith was forwarded the hearing officers' Findings of Fact, Conclusion and Recommendation on the hearing held on November 18, 1970 to determine whether the Commission should or should not suspend or revoke her salesman license. Executive Secretary reported that Mrs. Smith had informed Executive Secretary on December 30, 1970 that she will not file an exception to the findings, conclusion and recommendation of the hearing officers.

Moved by Sodetani and seconded by Yamanaka to accept the hearing officers' Findings, Conclusions and Recommendation in total. Motion carried.

Charles G. Clarke (Related to RE-368 Patricia Smith)

In accordance with the Administrative Procedures Act, Charles G. Clarke was forwarded the hearing officers' Findings of Fact, Conclusions and Recommendation on the hearing held on November 18, 1970 to determine whether the Commission should or should not suspend or revoke his broker license. Executive Secretary reported that Clarke had informed the Executive Secretary on December 31, 1970 that although he did not agree with the findings, conclusions and recommendation of the hearing officers, he will not file an exception with the Commission.

Moved by Sodetani and seconded by Yamanaka to accept the hearing officers' Findings, Conclusions and Recommendation in total. Motion carried.

RE-388, 395 and 396 Romeo Esperanza

Executive Secretary reported that the hearing notice on Romeo Esperanza was prepared by staff on possible violations reported in RE-388 and 395, but no charge was made on RE-396 inasmuch as staff could find no violation. The hearing notice has been forwarded to the Attorney General for review.

Ben Ayson dba Philippine Investment Company (Related to RE-388 Romeo Esperanza)

Executive Secretary reported that in preparing the hearing notice on Romeo Esperanza, it was noted that Ben Ayson dba Philippine Investment Company was the principal broker of Esperanza when the alleged violation took place. In keeping with the Commission's policy of holding the principal broker responsible for the activities of his sales staff, query was made as to whether the Commission wishes to bring charges against the principal broker, Ben Ayson.

Sodetani moved and Young seconded to bring charges against Ben Ayson in relation to RE-388 and 395. Motion carried.

Hale Pau Hana (condominium), Registration No. 175

This matter had been previously transmitted to the Attorney General for review and approval for prosecution. Deputy Attorney General Sidney Ayabe reported that negotiations for settlement are presently underway between the Association of Apartment Owners and the Developer; therefore, he suggested that the Commission hold off prosecution and perhaps purchasers can be satisfied and the matter resolved without going through with prosecution.

The Commission agreed to follow the suggestion to hold off on prosecution.

RE-417 and 422 Lewis Realty

At the November 24, 1970 meeting, the Commission decided to request Russell Lewis appearance at this meeting to discuss the matter of the number of complaints received in recent months. By letter dated December 30, 1970, Lewis responded by requesting that the Commission allow his wife, Vada Lewis to appear in his place inasmuch as he will be in Hilo for about a month, and furthermore, his wife is now the principal broker of Lewis Realty and she was involved in one of the complaints. Lewis was advised that his request was approved.

On January 6, 1971 Lewis called to inform that his wife passed away on January 5, 1971 and funeral services will be held at noon on January 8, 1971. He requested that the Commission excuse him from appearing at this meeting and he would be available on another date. Under the circumstance, his request was granted by the Executive Secretary.

Chairman Isonaga directed the Executive Secretary to request Lewis appearance at its next meeting.

RE-421 Velva Bergevin, Ltd.

The Commission directed the Executive Secretary to request the principal broker of Velva Bergevin, Ltd., to appear before the Commission at its next meeting to answer questions regarding this matter.

RE-427 Hee and Herron Realty, Inc. now licensed as Punahou Realty, Inc.

Alfred Hee, principal broker of Punahou Realty, Inc., voluntarily appeared before the Commission to answer any question the Commission may have regarding the complaint filed against Punahou Realty, Inc. Chairman Isonaga advised Hee that the Commission is not ready to take action on the matter at this meeting, but would like to have an informal meeting with Hee at the next commission meeting. Hee consented to meet with the Commission at the next meeting.

RE-414 John P. Chong (deceased)

The Commission took no action on this matter inasmuch as Chong is deceased and the Commission has been notified that a claim may be filed against the Real Estate Recovery Fund at a later date and there is nothing the Commission can do at this time.

New Business: Questionable Applications

Kenneth R. Bebb (salesman). Executive Secretary was directed to notify Bebb in accordance with the rules and/or the Administrative Procedures Act to appear before the Commission to discuss his application for issuance of a salesman certificate.

Norman C. Moeller (salesman). Chairman Isonaga requested that an investigation be conducted by our Hilo investigator to determine Moeller's conduct over the past 5 years.

LicensingCorporation

Alii of Honolulu, Inc.	Arthur E. O. Liu, PB
Lear Siegler Properties, Inc.	Lowell D. Funk, PB
J. M. Urner, Inc.	John M. Urner, PB
Dolman Associates, Inc. (formerly Dolman & Urner, Inc.)	Vi Dolman, PB
Forent Realty Corporation	Mildred L. Look, PB
C.B.Y. Lum, Inc. dba Executive Realty	Clifford B. Y. Lum, PB
Urban Management Corp.	Frederick A. Zane, PB
Punahou Realty, Inc. (original name Hee & Herron Realty, Inc. denied)	Alfred H. H. Hee, PB
Palace Realty, Inc.	Wayne S. W. Wong, PB
Esquire Realty, Inc.	Richard B. W. Ing, PB
Gordon Crabtree & Associates, Inc.	Gordon W. Crabtree, PB
Dillingham Land Corporation (registration as Hawaii corporation)	Donald H. Graham, Jr., PB

Branch Office

Preferred Properties, Inc., Br. 1 (Hilo)	Ramon N. Chiya, BIC
Walter N. Clark Realty Co., Br. 3 (Dillingham Blvd.)	Edwin G. F. Wee, BIC
RV Enterprises, Inc. dba Lewis Realty, Br. 1 (Hilo)	Russell G. Lewis, BIC
Checkmate Realty, Br. 2 (Makaloa St.)	Peter E. Chu, BIC
Byron K. Murphy, Br. 1	Trygre Stave, BIC

DBA

Kennedy Realty	Robert L. Kennedy, dba
Alfredo P. Esteban Realty Co.	Alfredo P. Esteban, dba
Yasuko Kawada Real Estate	Yasuko Kawada, dba
Omori Realty	Kimiko Y. Omori, dba
Lyum Realty	Henry H. H. Lyum, dba
Kencar Realty	Kenneth D. H. Chong, dba

Upon motion, the license processing of the above as tentatively authorized by the Licensing Administrator ~~was~~ approved.

Miscellaneous: Kuakini Heights Subdivision, Unit II
Executive Secretary reported that based on information he had received that Kuakini Investment, Inc., the owner-developer of Kuakini Heights Subdivision, Unit II, were selling their subdivided lands through their corporate officers, he wrote to Kuakini Investment, Inc., warning them that the corporation must retain the services of a licensed real estate broker to handle sale of the corporation's subdivided lands. By letter dated December 15, 1970, A. C. Gouveia, secretary of Kuakini Investment, Inc., claimed exemption from the licensing requirement of Section 467-7, Hawaii Revised Statutes, on the basis of being officers of the corporation that owns the property as well as being persons acting under a full and unqualified power of attorney to complete sales on behalf of the corporation.

Chairman Isonaga directed the Executive Secretary to ask the Attorney General for an opinion as to whether corporate officers are exempt under the owner exemption.

Use of Designation "Sales Representatives"

Executive Secretary reported that staff have noticed a number of licensees are using the designation of "Sales Representatives" or similar designations instead of "Broker" or "Salesman." The Commission was requested to render some ruling on this matter for the staff to follow.

The Commission unanimously agreed that the designation "Sales Representative" and other similar designations are not acceptable. Licensees must use the designation "Broker (b)" or "Salesman (s)." Business cards are considered as advertising material.

Sale of Property Owned by Licensees

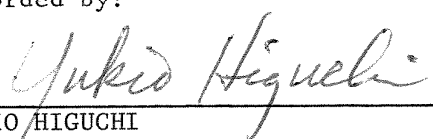
Question has been raised by staff as to whether a licensed broker or salesman who owns a property is prohibited from advertising and acting as owner in the sale of his property.

The Commission members were in agreement that this matter was resolved some time back. The Commission has a policy that licensees cannot wear two hats. He is considered as acting as a licensee in transacting the sale of his own property.

Next Meeting: January 28, 1971 at 2:00 p.m.

Adjournment: There being no further business, the meeting was adjourned at 5:45 p.m.

Recorded by:


YUKIO HIGUCHI

Executive Secretary